

UNITED STATES BANKRUPTCY COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA
OFFICE OF THE CLERK
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NOTICE

TO: Members of the Bar, Eastern District of Virginia
FROM: William C. Redden, Clerk
DATE: May 29, 2002
SUBJECT: Changes and Modifications to Local Bankruptcy Rules, United States
Bankruptcy Court for the Eastern District of Virginia, Effective July 1, 2002

The Bankruptcy Judges for the Eastern District of Virginia directed the Clerk to form a standing committee on Local Rules. This Committee solicited input from various constituencies, including the debtors' and creditors' bar, for the purpose of modifying, changing and improving the Local Rules. The Court has reviewed the recommendations made by the Committee and has approved a number of changes and modifications to the Local Rules, effective July 1, 2002. The Local Bankruptcy Rules revision package will be posted at each division of the Court and also will be placed at the Court's Internet web site on May 29, 2002. At or about close of business June 28, 2002, a complete recompilation of the Court's Local Rules will be placed at the Court's Internet web site. The following is a summary of the changes and modifications to the Local Bankruptcy Rules (LBRs) that will take effect on July 1, 2002:

1. A Comments addition to LBR 1007-1(I) is technical in nature and relates back to amendments agreed to previously by the Court that became effective March 1, 2001.
2. A Comments addition to LBR 2003-1(C) is technical in nature and relates back to amendments agreed to previously by the Court that became effective March 1, 2001.
3. Rule 3015-1(C(2)) has been amended to give debtors an additional ten (10) days to file a modified chapter 13 plan upon denial of confirmation.
4. Rule 3016-1 has been amended to clarify that an objection to confirmation must be filed not later than five (5) business days before the "initial" hearing on confirmation.
5. Rule 7026-1(L)(2) has been modified to conform to amended LBR 9014-1, which incorporates FRBP 7026(a)(2) in the list of provisions that generally will not be made applicable by the Court to discovery in contested matters and relief from stay matters.
6. LBR 9014-1 has been amended by adding FRBP 7026(a)(2) to the listing set forth in the LBR.
7. LBR 9022-1(B) has been amended technically to conform to the electronic order processing procedure established by the Court through the entry of a standing order and its accompanying administrative procedures exhibit, which has been incorporated by reference into the standing order. (See CM/ECF Practices Advisory No. 02-5, dated May 29, 2002, which provides additional information on the Court's electronic order processing procedure.)

The following recommendations made by the standing committee either were deferred for further review or were not approved by the Court: LBR 2016-1(C)—deferred for further review and consideration; LBR 3020-1—not approved by the Court.

Attachment

Revisions to the Local Bankruptcy Rules

United States Bankruptcy Court for the Eastern District of Virginia



**Effective July 1, 2002
(Ver. 5/16/02)**

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RULE 1007-1(I) LISTS, SCHEDULES AND STATEMENTS

Comments

Exhibits 6 (Creditor Matrix Diskette - Cover Sheet for List of Creditors) and 7 (Request for Waiver to File Conventionally) were deleted as exhibits. These forms are available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's Internet home page. The former Exhibits 6 and 7 are in Adobe Acrobat format. [Change effective 3/1/01].

RULE 2003-1(C) MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

Comments

Exhibit 8 (Hearings/Meetings - Notice of Rescheduled Meeting of Creditors) was deleted as an exhibit. This form is available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's internet home page. The former exhibit 8 is in Adobe Acrobat format. [Change effective 3/1/01.]

RULE 3015-2(C)(2) CHAPTER 13 PLAN REQUIREMENTS

(2) *Dismissal of Case Upon Denial of Confirmation, Except as Provided in LBR 1017-3:*

Except as provided in LBR 1017-3, if the Court denies confirmation of the debtor's original or subsequently modified Chapter 13 Plan and related Motions, the Clerk is directed to issue an order dismissing the chapter 13 case unless, within twenty (20) ~~ten (10)~~ days after the denial of confirmation:

Comments

3015-2(C)(2) This change is intended to give debtors an additional 10 days to file a modified plan upon denial of confirmation. The present 10-day rule effects a hardship on attorneys who have a chapter 13 practice and whose clients may live a distance from their offices and may not be able to travel to the attorneys' offices to sign modified plans within 10 days of denial of confirmation. [Change effective 7/1/02.]

RULE 3016-1 CHAPTER 11 PLAN

(E) ***Objection of Confirmation:*** Any objection to confirmation of the plan shall be filed with the Court not later than five (5) business days prior to the date set for the initial hearing on confirmation. The objecting party shall serve a copy of the objection on the United States Trustee and the parties designated in FRBP 3020(b)(1).

Comments

3016-1(E) This change clarifies that an objection to confirmation must be filed not later than five (5) business days before the initial hearing on confirmation. Absent leave of Court, an objection that is filed later than five (5) business days before the initial hearing on confirmation is not timely and shall not be considered by the Court. [Change effective 7/1/02.]

RULE 7026-1 DISCOVERY

(L) *Expert Disclosure:*

(2) *Timing of Mandatory Disclosure:*

(b) ***Contested Matters Except Relief from Stay:*** ~~In contested matters, LBR 9014-1 generally excludes the application of FRBP 7026(a)(2) in contested matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026(a)(2) shall be made by the movant or applicant, as the case may be, within thirty (30) days prior to the hearing date; then by the respondent or objecting party, on the later of ten (10) days after the movant or applicant presents the required disclosure, or on the date that a response to the motion or application is due.~~

(c) ***Relief from Stay:*** ~~In relief from stay matters, LBR 9014-1 generally excludes the application of FRBP 7026(a)(2) in relief from stay matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026(a)(2) shall be made by the parties within fifteen (15) days prior to the date set for final hearing on the motion. The parties shall disclose seven (7) days after disclosure any evidence that is solely contradictory or rebuttal evidence to each other's disclosure.~~

Comments

7026-1(L)(2)(b) and (c) These changes result from an amendment to LBR 9014-1, which added FRBP 7026(a)(2) to those subdivisions of Rule 7026 that are excluded generally from application in contested matters and in relief from stay matters. [Change effective 7/1/02.]

RULE 9014-1 DISCOVERY IN CONTESTED MATTERS AND RELIEF FROM STAY MATTERS

Unless otherwise ordered by the Court on its own motion or upon motion of a party, the following subdivisions of FRBP 7026 shall not apply in a contested matter or in a relief from stay matter: FRBP 7026(a)(1), 7026(a)(2), 7026(a)(3), 7026(d) and 7026(f).

Comments

9014-1 This change reflects the addition of FRBP 7026(a)(2) to LBR 9014-1. [Change effective 7/1/02.]

RULE 9022-1 COURT ORDERS

(B) ***Lists, Copies and Envelopes:*** ~~With each proposed order, the proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same. For each party appearing on the list, the proponent also shall:~~

- (1) when submitted, as provided for by an electronic means established by the Court, the order proponent shall file a list of parties, with mailing addresses indicated, who are to

receive notice of entry of the same and shall comply with all other requirements set forth therein; or

(2) except as the presiding judge in a case otherwise may direct, when submitted by conventional means, the order proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same and, in addition, shall also file:

(a) one copy of the proposed order, and

(b) for other than the United States Trustee, or standing chapter 13 trustee, a stamped envelope bearing the mailing address of the party.

Comments

9022-1(B) These technical changes are necessary to conform this subdivision of the LBR to the process of filing proposed orders as provided for by an electronic means established by the Court. [Change effective 7/1/02.]